

### **REMARKS**

Claims 1, 3 and 4 are pending and under consideration in the above-identified application. Claims 2 and 5 were previously cancelled.

In the Final Office Action of November 17, 2009, the Examiner rejected claims 1, 3 and 4.

With this Amendment, claim 1 was amended. No new matter has been introduced as a result of the amendments.

#### **I. Claim Objection**

Claim 1 was objected to for various informalities. Per the Examiner's suggestion, claim 1 was amended to correct the informalities. As such, the objection is now moot and Applicant respectfully requests that it is withdrawn.

#### **II. 35 U.S.C. § 103 Obviousness Rejection of Claims**

Claims 1, 3 and 4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al. (EP 0704921 A1) in view of Ikeda et al. (WO 01/29918; U.S. Patent No. 7,241,533 serving as English translation). Applicant respectfully traverses this rejection.

The claims require a battery that includes an anode that is made up of an anode current collector having a plurality of layers. Additionally, the claims require that an outer anode active material layer be disposed on an outer winding surface of the outer current collector layer and an inner anode active material layer be disposed on an inner winding surface of the inner current collector layer. The capacity ratio between the outer anode active material layer and the inner anode active material layer in at least one region is within a range of 0.6 to 0.8 inclusive.

The Examiner argues that even though Fujimoto et al. does not disclose the specific capacity range required by the claims, that ratio of the outer anode active material to the inner active anode material would be obvious. Office Action, page 6.

However, several factors can determine battery capacity. For example, the grain diameters of an active material and the density of an active material layer can affect battery capacity.

Similarly, Fujimoto et al. teaches varying the thickness of the electrode material to produce a battery with improved charge and discharge cycle characteristics. Fujimoto et al., page 3, lines 5-15. In fact, Fujimoto et al. teaches that the effects are achieved “if only [sic] the coating thickness of the electrode material...is smaller than that on the outer side of the electrode.” *Id.*

Indeed, Fujimoto et al. does not teach a capacity ratio between the outer anode active material layer and the inner anode active material layer in at least one region is within a range of 0.6 to 0.8 inclusive as required by the claims. Nor does Fujimoto et al. suggest a capacity ratio as required by the claims. Accordingly, the only motivation for the capacity ratio required by the claims is hindsight, which is impermissible.

As such, the above cited references fail either singularly or in combination with each other to teach or even fairly suggest all the requirements of the claims. As such, claims 1, 3 and 4 are patentable over the cited references. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

**III. Conclusion**

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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